



***New Jersey Department of the Treasury,  
Division of Contract Compliance and  
Equal Employment Opportunity (Public  
Contracts)***

***VENDOR/CONTRACTOR  
GUIDELINES***

***For Awarded Public Contracts Pursuant to  
P.L. 1975, C. 127  
(N.J.A.C. 17:27)***



# Overview

- ◆ General Requirements for Procurement, Professional and Service Contractors
- ◆ Affirmative Action Evidence Goods, Services and Professional Services Contracts
- ◆ Sample Federal Letter of Approval From the US Department of Labor
- ◆ Sample Certificate of Employee Information Report
- ◆ Sample Affirmative Action Employee Information Report Form AA302 for Goods, Services and Professional Services Contracts
- ◆ Affirmative Action Mandatory Language Exhibit “A” (Goods, Services, and Professional Services Contracts)
- ◆ Establishment of Goals for Procurement and Service Vendors
- ◆ Standards For Good Faith Compliance (Procurement and Service Vendors)
- ◆ Procedures for the Issuance and Renewal of Certificate of Employee Information Report
- ◆ General Requirements for the Awarding of Construction Contracts
- ◆ Affirmative Action Evidence Construction Contracts
- ◆ Sample Affirmative Action Initial Project Workforce Report Form AA201 for Construction Contracts
- ◆ Affirmative Action Mandatory Language Exhibit “B” (Construction Contracts)
- ◆ Establishment of Goals for Construction Contractors
- ◆ Standards For Good Faith Compliance (Construction Contractors)
- ◆ Affirmative Action Procedure Flow Chart



# ***AFFIRMATIVE ACTION EVIDENCE***

## ***Goods, Professional and General Service Contracts***

*ALL SUCCESSFUL PROCUREMENT AND SERVICE VENDORS MUST SUBMIT WITHIN SEVEN DAYS AFTER RECEIPT OF THE NOTIFICATION OF INTENT TO AWARD A CONTRACT OR RECEIPT OF THE CONTRACT, WHICHEVER IS SOONER, ONE OF THE FOLLOWING FORMS OF AFFIRMATIVE ACTION EVIDENCE TO THE PUBLIC AGENCY:*

- ◆ 1. AN EXISTING FEDERALLY APPROVED OR SANCTIONED AFFIRMATIVE ACTION PROGRAM.

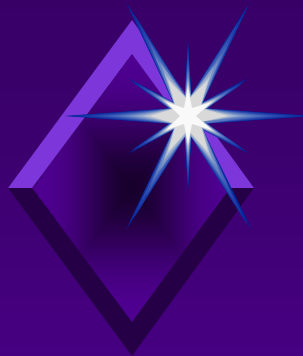
OR

- ◆ 2. A CERTIFICATE OF EMPLOYEE INFORMATION REPORT.

OR

- ◆ 3. IF YOU CANNOT PRESENT ITEMS 1 OR 2 YOU ARE REQUIRED TO SUBMIT A COMPLETED EMPLOYEE INFORMATION REPORT (FORM AA302). THIS FORM WILL BE MADE AVAILABLE TO YOU BY THE PUBLIC AGENCY AWARDING THE CONTRACT.

A CONTRACTOR'S BID MUST BE REJECTED AS NON-RESPONSIVE IF THE SUCCESSFUL VENDOR FAILS TO SUBMIT EITHER 1, 2, OR 3 WITHIN THE TIME SPECIFIED



U.S. Department of Labor

Employment Standards Administration  
Office of Federal Contract  
Compliance Programs  
Newark Area Office  
134 Evergreen Place, Fourth Floor  
East Orange, NJ 07018



February 27, 19 \_\_\_\_

Reply to the Attention of:

President

Dear

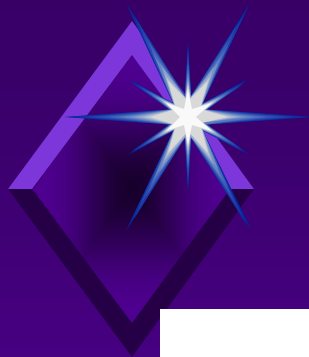
Our recent compliance review of your establishment's equal employment opportunity policies and practices was completed on February 27, 1985.

We found no apparent deficiencies or violations of Executive Order 11246, as amended, Section 501 of the Rehabilitation Act of 1973 or of 38 USC 2012 (the Vietnam Era Veterans' Readjustment Assistance Act). Accordingly, your establishment is deemed to be in compliance with these laws based on the material reviewed.

The Office of Federal Contract Compliance Programs sincerely appreciated the cooperation and courtesies extended by you and your staff during the conduct of the compliance review.

Sincerely,

Area Office Director



Certification \_\_\_\_\_

**CERTIFICATE OF EMPLOYEE INFORMATION REPORT**

This is to certify that the contractor                      before has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of \_\_\_\_\_.

**VOID**



State Treasurer

**VOID**



Form AA-320  
Rev. 5/97

State of New Jersey

## AFFIRMATIVE ACTION EMPLOYEE INFORMATION REPORT

**IMPORTANT: READ INSTRUCTIONS ON BACK OF FORM CAREFULLY BEFORE COMPLETING FORM. TYPE OR PRINT IN SHARP BALL POINT PEN. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM MAY DELAY ISSUANCE OF YOUR CERTIFICATE**

### SECTION A - COMPANY IDENTIFICATION

1. FID NO OR SOCIAL SECURITY	2. TYPE OF BUSINESS 1. MFG. <input type="checkbox"/> 2. SERVICE <input type="checkbox"/> 3. WHOLESALE <input type="checkbox"/> 4. RETAIL <input type="checkbox"/> 5. OTHER <input type="checkbox"/>		3. TOTAL NO. EMPLOYEES IN THE ENTIRE COMPANY	
4. COMPANY NAME				
5. STREET	CITY	COUNTY	STATE	ZIP CODE
6. NAME OF PARENT OR AFFILIATED COMPANY (IF NONE, SO INDICATE)		CITY	STATE	ZIP CODE
7. DOES THE ENTIRE COMPANY HAVE A TOTAL OF AT LEAST 50 EMPLOYEES?		YES <input type="checkbox"/> NO <input type="checkbox"/>		
8. CHECK ONE. IS THE COMPANY <input type="checkbox"/> SINGLE-ESTABLISHMENT EMPLOYER <input type="checkbox"/> MULTI-ESTABLISHMENT EMPLOYER				
9. IF MULTI-ESTABLISHMENT EMPLOYER, STATE THE NUMBER OF ESTABLISHMENTS IN N.J. <input type="text"/>				
10. TOTAL NUMBER OF EMPLOYEES AT ESTABLISHMENT WHICH HAS BEEN AWARDED THE CONTRACT <input type="text"/>				
11. PUBLIC AGENCY AWARDED CONTRACT		CITY	STATE	ZIP CODE

### OFFICIAL USE ONLY

DATE RECEIVED MONTH/YR	COUNTY	CUR. REPORTING PERIODS MONTHLY	FEMALE	ASSIGNED CERTIFICATION NUMBER
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### SECTION B - EMPLOYMENT DATA

12. Report all permanent, temporary and part-time employees ON YOUR OWN PAYROLL. Enter the appropriate figures on all lines and in all columns. Where there are no employees in a particular category, enter a zero. Include ALL employees, not just those in priority categories, in columns 1, 2 & 3.

JOB CATEGORIES	ALL EMPLOYEES			MINORITY GROUP EMPLOYEES (Form AA-320)								
	Col. 1 TOTAL (Col. 2+3+4)	Col. 2 MALE	Col. 3 FEMALE	MALE				FEMALE				
				BLACK	HISPANIC	AMERICAN INDIAN	ASIAN	BLACK	HISPANIC	AMERICAN INDIAN	ASIAN	
Officials and Managers												
Professionals												
Technicians												
Sales Workers												
Office and Clerical												
Craftworkers (Skilled)												
Operatives (Semi-skilled)												
Laborers (Unskilled)												
Service Workers												
TOTAL												
Total employment from Previous Report (if any)												

The data below shall NOT be included in the figures for the appropriate categories above.

13. HOW WAS INFORMATION AS TO RACE OR ETHNIC GROUP IN SECTION B OBTAINED? 1. VISUAL SURVEY <input type="checkbox"/> 2. EMPLOYMENT RECORD <input type="checkbox"/> 3. OTHER (Specify) <input type="text"/>			15. IS THIS THE FIRST EMPLOYEE INFORMATION REPORT (AA-320) SUBMITTED? 1. YES <input type="checkbox"/> 2. NO <input type="checkbox"/>			16. FID NO. DATE OF LAST REPORT SUBMITTED NO. DAY YEAR		
14. DATES OF PREVIOUS REPORTS: FROM TO								

### SECTION C - SIGNATURE AND IDENTIFICATION

17. NAME OF PERSON COMPLETING FORM (Print or Type) (Contractor/CEO/Officer)		SIGNATURE		TITLE		DATE MO DAY YEAR	
18. ADDRESS (NO. & STREET)		CITY	STATE	ZIP CODE	Phone (Area Code, No., Extension)		

**AFFIRMATIVE ACTION OFFICE**



# **MANDATORY CONTRACT LANGUAGE**

## ***Goods, Professional Service and General Service Contracts***

A PROCUREMENT AND SERVICE VENDOR MUST SIGN A CONTRACT CONTAINING THE MANDATORY LANGUAGE OF EXHIBIT "A". IF A PROCUREMENT OR SERVICE VENDOR REFUSES TO SIGN A CONTRACT CONTAINING THE MANDATORY AFFIRMATIVE ACTION CONTRACT LANGUAGE AT THE TIME THE CONTRACT IS SUBMITTED FOR SIGNING BY THE PUBLIC AGENCY, THE PUBLIC AGENCY SHALL REJECT THE VENDOR'S BID AS NON-RESPONSIVE. WHEN SUCH A REJECTION OCCURS THE SAME AFFIRMATIVE ACTION REQUIREMENTS SHALL APPLY TO ANY OTHER SUCCESSFUL VENDOR SELECTED BY THE PUBLIC AGENCY IN ACCORDANCE WITH CONTRACTING LAWS AND PROCEDURES.



## ***Exhibit A***

*(Revised 1994)*

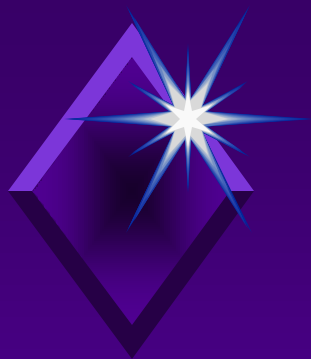
*P.L. 1975, C. 127 (N.J.A.C. 17:27)*

### ***MANDATORY AFFIRMATIVE ACTION LANGUAGE***

#### ***GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS***

*During the performance of this contract, the contractor agrees as follows:*

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: employment, up- grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

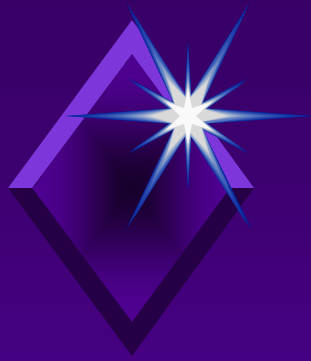


## ***Exhibit A***

*(continued)*

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time and the Americans with Disabilities Act. The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Division of Contract Compliance and EEO Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time



## ***Exhibit A***

*(continued)*

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions. The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions. The contractor and its subcontractors shall furnish such reports or other documents to the Division of Contract Compliance and EEO Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance and EEO Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17:27)



# **ESTABLISHMENT OF GOALS FOR PROCUREMENT AND SERVICE VENDORS**

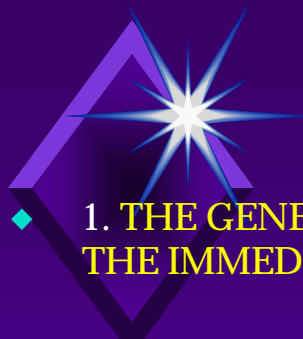
*THE STATE AFFIRMATIVE ACTION OFFICE SHALL ESTABLISH THE MINORITY AND FEMALE EMPLOYMENT GOALS FOR PROCUREMENT, PROFESSIONAL AND SERVICE VENDOR OR SUBCONTRACTOR. THE ESTABLISHMENT OF ANY PROCUREMENT AND SERVICE EMPLOYMENT GOAL WILL BE DETERMINED BY UTILIZING DATA PROVIDED BY THE NEW JERSEY DEPARTMENT OF LABOR AND INDUSTRY, DIVISION OF RESEARCH AND PLANNING, IDENTIFYING THE ACTUAL AVAILABILITY STATUS OF QUALIFIED MINORITIES AND FEMALES WITHIN THE VENDOR'S PARTICULAR LABOR FORCE AND MARKET BY COUNTY/COUNTIES IN WHICH THE VENDOR'S PRIMARY FACILITY OR FACILITIES ARE LOCATED. IT SHOULD BE NOTED THAT THESE ARE GOALS AND NOT QUOTAS WHICH MUST BE STRICTLY SATISFIED. IF THE VENDOR AND/OR THE VENDOR'S SUBCONTRACTOR(S) HAS ATTEMPTED IN GOOD FAITH TO SATISFY THE APPLICABLE GOALS, THE VENDOR WILL NOT BE PENALIZED IF THE VENDOR/SUBCONTRACTOR(S) WORKFORCE FALLS SHORT OF THE GOALS.*



# **STANDARDS FOR GOOD FAITH COMPLIANCE**

## ***Procurement and Service Vendors***

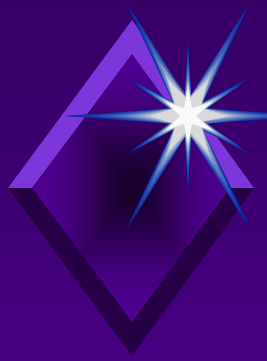
*THROUGH ON-SITE VISITS, PERIODIC REVIEWS AND INFORMATION SUBMITTED BY THE VENDOR OR SUBCONTRACTOR(S), THE STATE AFFIRMATIVE ACTION OFFICE WILL EVALUATE THE PERFORMANCE OF THE VENDOR TO DETERMINE WHETHER THE VENDOR IS ACTING IN GOOD FAITH TO COMPLY WITH THE AFFIRMATIVE ACTION REGULATIONS. THE AFFIRMATIVE ACTION OFFICE SHALL CONSIDER THE FOLLOWING FACTORS IN DETERMINING WHETHER A VENDOR HAS ACTED IN GOOD FAITH:*



## *STANDARDS FOR GOOD FAITH COMPLIANCE*

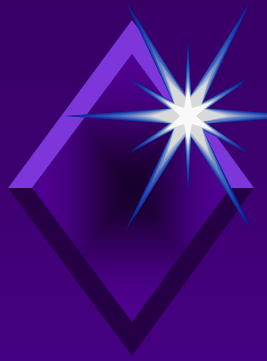
### *Procurement and Service Vendors (continued)*

- ◆ 1. THE GENERAL AVAILABILITY OF MINORITIES AND FEMALES HAVING REQUISITE SKILLS IN THE IMMEDIATE LABOR AREA.
- ◆ 2. THE PERCENTAGES OF MINORITY AND FEMALE WORKERS IN THE TOTAL WORKFORCE IN THE IMMEDIATE LABOR AREA.
- ◆ 3. THE AVAILABILITY OF PROMOTABLE MINORITY AND FEMALE EMPLOYEES WITHIN THE VENDOR'S OR SUB-CONTRACTOR'S ORGANIZATION.
- ◆ 4. THE ANTICIPATED EXPANSION, CONTRACTION AND TURNOVER OF THE VENDOR'S OR SUB-CONTRACTOR'S WORKFORCE.
- ◆ 5. THE EXISTENCE OF TRAINING INSTITUTIONS CAPABLE OF TRAINING MINORITIES AND FEMALES IN THE REQUISITE SKILLS.
- ◆ 6. THE DEGREE OF TRAINING WHICH THE VENDOR OR SUBCONTRACTOR IS REASONABLY ABLE TO UNDERTAKE AS A MEANS OF MAKING ALL JOB CLASSIFICATIONS AVAILABLE TO MINORITIES AND FEMALES.
- ◆ 7. THE AVAILABILITY AND USE OF RECRUITMENT RESOURCES TO ATTRACT MINORITIES AND FEMALES.
- ◆ 8. THE VENDORS DOCUMENTATION OF ATTEMPTS TO ATTAIN THE GOALS.
- ◆ \* ALL GOALS ARE AVAILABLE UPON REQUEST.



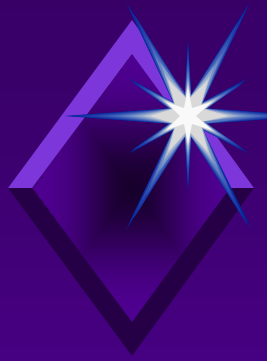
## *PROCEDURES FOR THE ISSUANCE AND RENEWAL OF A CERTIFICATE OF EMPLOYEE INFORMATION REPORT Procurement and Service Vendors*

- ◆ THE SUCCESSFUL VENDOR OR SUBCONTRACTOR THAT HAS SUBMITTED AN INITIAL EMPLOYEE INFORMATION REPORT (FORM AA302) TO A PUBLIC AGENCY SHALL IMMEDIATELY PROVIDE THE TOP TWO COPIES (MARKED AFFIRMATIVE ACTION OFFICE AND AFFIRMATIVE ACTION OFFICE DP) OF SAID REPORT TO THE STATE AFFIRMATIVE ACTION OFFICE AS STATED ON THE BACK OF THE REPORT FORM.
- ◆ THE STATE AFFIRMATIVE ACTION OFFICE SHALL APPROVE OR REJECT AN INITIAL EMPLOYEE INFORMATION REPORT WITHIN 40 DAYS OF ITS SUBMISSION, PROVIDED, HOWEVER, THAT SUCH A REJECTION, IF IT IS INDEPENDENT OF A NONCOMPLIANCE DETERMINATION, SHALL IN NO WAY AFFECT THE VALIDITY OF A CONTRACT FOR WHICH SAID INITIAL EMPLOYEE INFORMATION REPORT WAS PRESENTED. UPON APPROVAL OF AN INITIAL EMPLOYEE INFORMATION REPORT, THE AFFIRMATIVE ACTION OFFICE SHALL ISSUE TO THE VENDOR OR SUBCONTRACTOR AN INITIAL CERTIFICATE OF EMPLOYEE INFORMATION REPORT WHICH SHALL BE VALID FOR THE TIME PERIOD INDICATED ON THE CERTIFICATE.



## *PROCEDURES FOR THE ISSUANCE AND RENEWAL OF A CERTIFICATE OF EMPLOYEE INFORMATION REPORT (CONTINUED)*

- ◆ AS EARLY AS 90 DAYS PRIOR TO THE EXPIRATION OF A CERTIFICATE OF EMPLOYEE INFORMATION REPORT, A VENDOR OR SUBCONTRACTOR MAY SUBMIT AN APPLICATION PACKAGE FOR THE RENEWAL OF THEIR CERTIFICATE OF EMPLOYEE INFORMATION REPORT TO THE STATE AFFIRMATIVE ACTION OFFICE. THE RENEWAL PACKAGE, CONSISTING OF THE AA 302 RENEWAL REPORT, ACCOMPANIED BY AA 302(S) MARKED NEW JERSEY FACILITY FOR EACH COMPANY LOCATION IN NEW JERSEY AND A VENDOR EMPLOYEE ACTIVITY SUMMARY REPORT, IS TO BE SUBMITTED ON FORMS SPECIFIED BY THE AFFIRMATIVE ACTION OFFICE. ALL RENEWAL FORMS SHALL BE MADE AVAILABLE TO THE VENDOR OR SUBCONTRACTOR BY THE STATE AFFIRMATIVE ACTION OFFICE.
- ◆ THE AFFIRMATIVE ACTION OFFICE SHALL APPROVE OR REJECT AN APPLICATION PACKAGE FOR RENEWAL OF A CERTIFICATE OF EMPLOYEE INFORMATION REPORT WITHIN 60 DAYS OF ITS SUBMISSION, AND THE FAILURE OF THE AFFIRMATIVE ACTION OFFICE TO ACT WITHIN 60 DAYS SHALL CONSTITUTE APPROVAL OF THE RENEWAL APPLICATION. IF A RENEWAL APPLICATION IS REJECTED, THE AFFIRMATIVE ACTION OFFICE SHALL STATE IN WRITING REASONS FOR THE REJECTION. UPON APPROVAL OF A RENEWAL APPLICATION, THE AFFIRMATIVE ACTION OFFICE SHALL ISSUE TO THE VENDOR OR SUBCONTRACTOR A CERTIFICATE OF EMPLOYEE INFORMATION REPORT WHICH SHALL BE VALID FOR THE TIME PERIOD INDICATED ON THE CERTIFICATE.



# ***AFFIRMATIVE ACTION EVIDENCE***

## ***Construction***

◆ ALL SUCCESSFUL CONSTRUCTION CONTRACTORS MUST WITHIN THREE DAYS OF SIGNING A CONSTRUCTION CONTRACT SUBMIT THEIR **INITIAL PROJECT MANNING REPORT** TO THE PUBLIC AGENCY AND THE DEPARTMENT OF THE TREASURY AFFIRMATIVE ACTION OFFICE (COPY MARKED PUBLIC AGENCY AND COPIES MARKED AFFIRMATIVE ACTION OFFICE). THE **INITIAL PROJECT MANNING REPORT** WILL BE MADE AVAILABLE TO THE CONSTRUCTION CONTRACTOR BY THE PUBLIC AGENCY AWARDING THE CONTRACT.

A CONTRACTORS BID MUST BE REJECTED AS NON RESPONSIVE IF THE SUCCESSFUL CONTRACTOR FAILS TO SUBMIT THE INITIAL PROJECT MANNING REPORT WITHIN THE TIME SPECIFIED.



FORM  
AA-201  
REV. 5/97

State of New Jersey  
**INITIAL PROJECT WORKFORCE REPORT - CONSTRUCTION**

Official Use Only

Assignment \_\_\_\_\_

Code \_\_\_\_\_

READ INSTRUCTIONS ON BACK CAREFULLY BEFORE COMPLETING THIS FORM.  
TYPE OR PRINT IN SHARP BALL-POINT PEN.

DISTRIBUTION: Affirmative Action Office, Affirmative Action Office DP, Public Agency, Contractor

1. Name and address of Prime Contractor

\_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Street Address)  
\_\_\_\_\_  
(City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip Code)

3. Name and Address of Public Agency Awarding Contract

Date of Contract Award  
Contract No.  
Dollar Amount of Contract

4. Name and Location of Project

2. MBE ☐ WBE ☐

County \_\_\_\_\_

5. Trade or Craft	Total Number of Employees			Total Minority and Female Employees			Projected Phase-in Date	Projected Completion Date
	J	AP	Female	J	AP	Female		
01 Asbestos Worker								
02 Bricklayer or Mason								
03 Carpenter								
04 Electrician								
05 Glazier								
06 HVAC Mechanic								
07 Ironworker								
08 Operating Engineer								
09 Painter								
10 Plumber								
11 Roofer								
12 Sheet Metal Worker								
13 Sprinkler Fitter								
14 Steamfitter								
15 Surveyor								
16 Tiler								
17 Truck Driver								
18 Laborer								
19 Other								
20 Other								
21 Other								
22 Other								

5. Completed By (AA Officer) Print or Type

\_\_\_\_\_  
(NAME)

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(TITLE)

\_\_\_\_\_  
(AREA CODE)

\_\_\_\_\_  
(TELEPHONE NO.)

\_\_\_\_\_  
(EXT.)

\_\_\_\_\_  
(DATE)

AFFIRMATIVE ACTION OFFICE



# ***MANDATORY CONTRACT LANGUAGE***

## ***Construction Contracts***

- ◆ A CONSTRUCTION CONTRACTOR MUST SIGN A CONTRACT CONTAINING THE MANDATORY LANGUAGE OF **EXHIBIT "B"**. IF A CONSTRUCTION CONTRACTOR REFUSES TO SIGN A CONTRACT CONTAINING THE MANDATORY AFFIRMATIVE ACTION CONTRACT LANGUAGE AT THE TIME THE CONTRACT IS SUBMITTED FOR SIGNING BY THE PUBLIC AGENCY, THE PUBLIC AGENCY SHALL REJECT THE CONTRACTOR'S BID AS NON RESPONSIVE. WHEN SUCH A REJECTION OCCURS THE SAME AFFIRMATIVE ACTION REQUIREMENTS SHALL APPLY TO ANY OTHER SUCCESSFUL CONTRACTOR SELECTED BY THE PUBLIC AGENCY IN ACCORDANCE WITH CONTRACTING LAWS AND PROCEDURES.



## ***Exhibit B***

*(Revised 1994)*

*P.L. 1975, C. 127 (N.J.A.C. 17:27)*

### ***MANDATORY AFFIRMATIVE ACTION LANGUAGE***

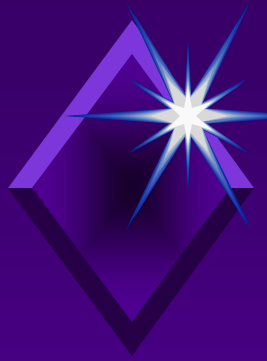
#### ***CONSTRUCTION CONTRACTS***

- ◆ During the performance of this contract, the contractor agrees as follows:
- ◆ a. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include, but not be limited to the following: employment, up grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause;
- ◆ b. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation;



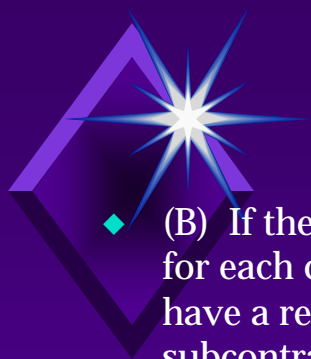
## ***Exhibit B*** ***(continued)***

- ◆ c.The contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- ◆ d.The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.
- ◆ e.When hiring workers in each construction trade, the contractor or subcontractor agrees to attempt in good faith to employ minority and female workers in each construction trade consistent with the applicable employment goal prescribed by N.J.A.C. 17:27 7.3; provided, however, that the Division of Contract Compliance and EEO Office may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B and C, as long as the Division of Contract Compliance and EEO Office is satisfied that the contractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Affirmative Action Office, that its percentage of active "card carrying" members who are minority and female workers is equal to or greater than the applicable employment goal prescribed by N.J.A.C. 17:27 7.3, promulgated by the Treasurer pursuant to P.L.1975, c. 127, as amended and supplemented from time to time. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:



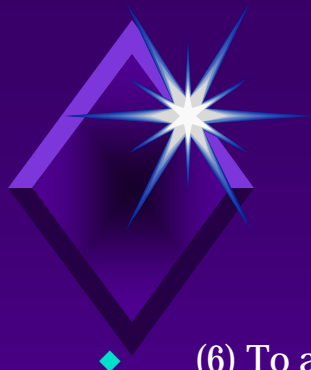
## ***Exhibit B (continued)***

- ◆ (A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as supplemented and amended from time to time. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five days prior to the commencement of construction work, the contractor or subcontractor agrees directly to attempt to hire minority and female workers consistent with the applicable employment goal. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and female workers consistent with the applicable employment goal, the contractor or subcontractor agrees to be prepared to hire minority and female workers directly, consistent with the applicable employment goal, by complying with the hiring procedures prescribed under (B) below; and the contractor or subcontractor further agrees to immediately take said action if it determines or is so notified by the Affirmative Action Office that the union is not referring minority and female workers consistent with the applicable employment goal



## ***Exhibit B*** ***(continued)***

- ◆ (B) If the hiring of a workforce consistent with the employment goal has not or cannot be achieved for each construction trade by adhering to the procedures of (b) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions consistent with the applicable county employment goals:
  - ◆ (1) To notify the Public Agency Compliance Officer, Division of Contract Compliance and EEO Office, and at least one approved minority referral organization of its manpower needs, and request referral of minority and female workers;
  - ◆ (2) To notify any minority and female workers who have been listed with it as awaiting available vacancies;
  - ◆ (3) Prior to commencement of work, to request the local construction trade union, if the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, to refer minority and female workers to fill job openings;
  - ◆ (4) To leave standing requests for additional referral to minority and female workers with the local construction trade union, if the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area until such time as the workforce is consistent with the employment goal;
  - ◆ (5) If it is necessary to lay off some of the workers in a given trade on the construction site, to assure, consistent with the applicable State and Federal statutes and court decisions, that sufficient minority and female employees remain on the site consistent with the employment goal; and to employ any minority and female workers so laid off by the contractor on any other construction site in the area on which its workforce composition is not consistent with an employment goal established pursuant to rules implementing P.L. 1975, c. 127;



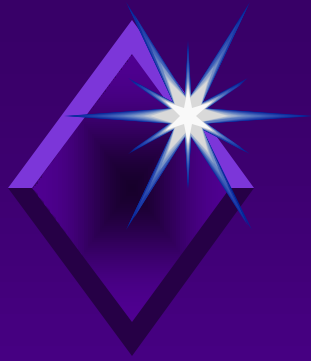
## ***Exhibit B*** ***(continued)***

- ◆ (6) To adhere to the following procedure when minority and female workers apply or are referred to the contractor or subcontractor:
  - ◆ (I) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required, the contractor or subcontractor shall determine the qualifications of such individuals and if the contractor's or subcontractor's workforce in each construction trade is not consistent with the applicable employment goal, it shall employ such persons which satisfy appropriate qualification standards; provided however, that a contractor or subcontractor shall determine that the individual at least possesses the skills and experience recognized by any worker's skills and experience classification determination which may have been made by a Public Agency Compliance Officer, union, apprentice program or a referral agency, provided the referral agency is acceptable to the Division of Contract Compliance and EEO Office and provided further, that, if necessary, the contractor or subcontractor shall hire minority and female workers who qualify as trainees pursuant to these regulations. All of the requirements of this paragraph, however, are limited by the provisions of (C) below.
  - ◆ (ii) If the contractor's or subcontractor's workforce is consistent with the applicable employment goal, the name of said female or minority group individual shall be maintained on a waiting list for the first consideration, in the event the contractor's or subcontractor's workforce is no longer consistent with the applicable employment goal.



## ***Exhibit B*** ***(continued)***

- ◆ (iii) If, for any reason, said contractor or subcontractor determines that a minority individual or a female is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing with the reasons for the determination, maintain a copy in its files, and send a copy to the Public Agency Compliance Officer and to the Division of Contract Compliance and EEO Office.
- ◆ (7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract and on forms made available by the Affirmative Action Office and shall be submitted promptly to that office upon request.



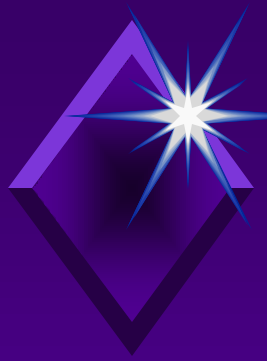
## ***Exhibit B*** ***(continued)***

- ◆ (C) The contractor or subcontractor agrees that nothing contained in (B) preceding provision shall preclude the contractor or subcontractor from complying with the hiring hall or apprenticeship provisions in any applicable collective bargaining agreement or hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement: provided, however, that where the practices of a union or apprenticeship program will result in the exclusion of minorities and females or the failure to refer minorities and females consistent with the county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to said provisions (B) without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ female and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of the preceding provisions (B) it shall, where applicable, employ minority and female workers residing within the geographical jurisdiction of the union.



## ***Exhibit B*** ***(continued)***

- ◆ (D) The contractor agrees to complete an Initial Project Manning Report on forms provided by the Division of Contract Compliance and EEO Office or in the form prescribed by the Division of Contract Compliance and EEO Office and submit a copy of said form no later than 3 days after signing a construction contract; provided, however, that the public agency may extend in a particular case the allowable time for submitting the form to no more than 14 days; and to submit a copy of the Monthly Project Manning Report once a month (by the seventh work day of each month) thereafter for the duration of this contract to the Division of Contract Compliance and EEO Office and to the Public Agency Compliance Officer. The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on the job and off the job programs for outreach and training of minority and female trainees employed on the construction projects
- ◆ (E) The contractor and its subcontractors shall furnish such reports or other documents to the Division of Contract Compliance and EEO Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the affirmative action office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17:27)



# ***ESTABLISHMENT OF GOALS FOR CONSTRUCTION CONTRACTORS***

◆THE STATE AFFIRMATIVE ACTION OFFICE SHALL ESTABLISH THE MINORITY AND FEMALE EMPLOYMENT GOALS FOR CONSTRUCTION CONTRACTORS. THE ESTABLISHMENT OF ANY CONSTRUCTION EMPLOYMENT GOAL WILL BE DETERMINED BY UTILIZING DATA PROVIDED BY THE NEW JERSEY DEPARTMENT OF LABOR AND INDUSTRY, DIVISION OF RESEARCH AND PLANNING, IDENTIFYING THE ACTUAL AVAILABILITY STATUS OF QUALIFIED MINORITIES AND FEMALES.

◆IT SHOULD BE NOTED THAT THESE ARE GOALS AND NOT QUOTAS WHICH MUST BE STRICTLY SATISFIED. IF THE CONTRACTOR HAS ATTEMPTED IN GOOD FAITH TO SATISFY THE APPLICABLE GOALS, THE CONTRACTOR WILL NOT BE PENALIZED IF THE CONTRACTOR'S WORKFORCE FALLS SHORT OF THE GOALS.



## ***STANDARDS FOR GOOD FAITH COMPLIANCE Construction Contractors***

- ◆ THROUGH ON SITE VISITS, PERIODIC REVIEWS AND INFORMATION SUBMITTED BY THE CONTRACTOR, THE STATE AFFIRMATIVE ACTION OFFICE WILL EVALUATE THE PERFORMANCE OF THE CONTRACTOR TO DETERMINE WHETHER THE CONTRACTOR IS ACTING IN GOOD FAITH TO COMPLY WITH THE AFFIRMATIVE ACTION REGULATIONS.
- ◆ THE AFFIRMATIVE ACTION OFFICE SHALL CONSIDER THE FOLLOWING FACTORS IN DETERMINING WHETHER A CONTRACTOR HAS ACTED IN GOOD FAITH:

- ◆ 1. NOTIFICATION TO UNIONS

CONTRACTORS AND SUBCONTRACTORS WILL NOTIFY THE UNION WITH WHOM IT HAS A REFERRAL AGREEMENT, WITHIN THREE DAYS OF THE CONTRACT AWARD, OF THE OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS UNDER THE AFFIRMATIVE ACTION REGULATIONS AND SEEK THE COOPERATION OF SUCH UNIONS IN MEETING THE MINORITY GOAL REQUIREMENTS.



## ***STANDARDS FOR GOOD FAITH COMPLIANCE Construction Contractors (continued)***

### ◆ 2. EMPLOYMENT OF MINORITY AND FEMALE WORKERS

CONTRACTORS AND SUBCONTRACTORS SHALL EMPLOY MINORITY AND FEMALE WORKERS, IN EACH CRAFT, CONSISTENT WITH THE APPLICABLE MINORITY GOALS, BY USING THE PROCEDURES CONTAINED IN EXHIBIT "B". EXHIBIT "B" CONTAINS THE MANDATORY LANGUAGE WHICH WILL BE INCLUDED IN ALL CONSTRUCTION CONTRACTS.

- ◆ A. REQUEST THE REFERRAL OF MINORITY AND FEMALE JOURNEYWORKERS AND APPRENTICES CONSISTENT WITH THE REQUIRED EMPLOYMENT GOALS FROM THE UNION WITH WHICH THE CONTRACTOR OR SUBCONTRACTOR HAS A COLLECTIVE BARGAINING AGREEMENT OR REFERRAL ARRANGEMENT.
- ◆ B. IF THE HIRING OF A WORKFORCE CONSISTENT WITH THE EMPLOYMENT GOAL HAS NOT OR CANNOT BE ACHIEVED FOR EACH CONSTRUCTION TRADE BY ADHERING TO THE PROCEDURES OF THE PRECEDING SECTION OR IF THE CONTRACTOR OR SUBCONTRACTOR DOES NOT HAVE A REFERRAL AGREEMENT OR ARRANGEMENT WITH THE UNION FOR A CONSTRUCTION TRADE, THE CONTRACTOR OR SUBCONTRACTOR IS TO TAKE THE FOLLOWING ACTIONS CONSISTENT WITH THE APPLICABLE COUNTY EMPLOYMENT GOALS:



## ***STANDARDS FOR GOOD FAITH COMPLIANCE Construction Contractors (continued)***

- ◆ 1. TO NOTIFY THE PUBLIC AGENCY COMPLIANCE OFFICER, AFFIRMATIVE ACTION OFFICE AND AT LEAST ONE APPROVED MINORITY REFERRAL ORGANIZATION OF ITS EMPLOYMENT NEEDS, AND REQUEST REFERRAL OF MINORITY AND FEMALE WORKERS:
- ◆ 2. TO NOTIFY MINORITY AND FEMALE WORKERS WHO HAVE BEEN LISTED WITH IT AS AWAITING AVAILABLE VACANCIES:
- ◆ 3. PRIOR TO COMMENCEMENT OF WORK, TO REQUEST THE LOCAL CONSTRUCTION TRADE UNION. IF THE CONTRACTOR OR SUBCONTRACTOR HAS A REFERRAL AGREEMENT OR ARRANGEMENT WITH A UNION FOR THE CONSTRUCTION TRADE, TO REFER MINORITY AND FEMALE WORKERS TO FILL JOB OPENINGS:
- ◆ 4. TO LEAVE STANDING LOCAL REQUESTS FOR ADDITIONAL REFERRAL OF MINORITY WORKERS WITH THE LOCAL CONSTRUCTION TRADE UNION, IF THE CONTRACTOR OR SUBCONTRACTOR HAS A REFERRAL AGREEMENT OR ARRANGEMENT WITH A UNION FOR THE CONSTRUCTION TRADE. THE STATE TRAINING AND EMPLOYMENT SERVICE AND OTHER APPROVED REFERRAL SOURCES IN THE AREA UNTIL SUCH TIME AS THE WORKFORCE IS CONSISTENT WITH THE EMPLOYMENT GOAL:



## ***STANDARDS FOR GOOD FAITH COMPLIANCE Construction Contractors (continued)***

- ◆ 5. IF IT IS NECESSARY TO LAY OFF SOME OF THE WORKERS IN A GIVEN TRADE ON THE CONSTRUCTION SITE, TO ASSURE CONSISTENT WITH THE APPLICABLE STATE AND FEDERAL STATUTES AND COURT DECISIONS, THAT SUFFICIENT MINORITY EMPLOYEES REMAIN ON THE SITE CONSISTENT WITH THE EMPLOYMENT GOAL; AND TO EMPLOY ANY MINORITY WORKERS SO LAID OFF BY THE CONTRACTOR ON ANY OTHER CONSTRUCTION SITE IN THE AREA ON WHICH ITS WORKFORCE COMPOSITION IS NOT CONSISTENT WITH THE APPLICABLE EMPLOYMENT GOAL:
- ◆ 6. TO ADHERE TO THE PROCEDURE PRESCRIBED IN PROVISION (B) (6) OF THE MANDATORY CONTRACT LANGUAGE CONTAINED IN EXHIBIT "B" WHEN MINORITY WORKERS APPLY OR ARE REFERRED TO THE CONTRACTOR OR SUBCONTRACTOR.
- ◆ C. NOTHING CONTAINED IN THE PRECEDING SECTION SHALL PRECLUDE THE CONTRACTOR OR SUBCONTRACTOR FROM COMPLYING WITH THE HIRING HALL OR APPRENTICESHIP PROVISIONS IN ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENT OR HIRING HALL ARRANGEMENT, AND, WHERE REQUIRED BY CUSTOM OR AGREEMENT, THE CONTRACTOR OR SUBCONTRACTOR IS TO SEND JOURNEYWORKERS AND TRAINEES TO THE UNION FOR REFERRAL, OR TO THE APPRENTICESHIP PROGRAM FOR ADMISSION IN ACCORDANCE WITH THE TERMS OF SUCH AN AGREEMENT. HOWEVER, WHERE THE PRACTICES OF A UNION OR APPRENTICESHIP PROGRAM WILL RESULT IN THE EXCULSION OF MINORITY AND FEMALE PERSONS OR THE FAILURE TO REFER MINORITY AND FEMALE PERSONS CONSISTENT WITH THE COUNTY EMPLOYMENT GOAL, THE CONTRACTOR OR SUBCONTRACTOR IS TO CONSIDER FOR EMPLOYMENT PERSONS REFERRED PURSUANT TO PROVISION (B) (6) OF THE MANDATORY CONTRACT LANGUAGE CONTAINED IN EXHIBIT "B", WITHOUT REGARD TO SUCH AGREEMENT. ALSO, THE CONTRACTOR OR SUBCONTRACTOR, IN IMPLEMENTING THESE PROCEDURES, WHERE PRACTICABLE, IS TO EMPLOY MINORITY AND FEMALE WORKERS RESIDING WITHIN THE GEOGRAPHICAL JURISDICTION OF THE UNION.



## ***STANDARDS FOR GOOD FAITH COMPLIANCE Construction Contractors (continued)***

- ◆ D. NO CONTRACTOR OR SUBCONTRACTOR SHALL BE REQUIRED TO EMPLOY A WORKFORCE PERCENTAGE OF APPRENTICES, ADVANCED TRAINEES AND TRAINEES WHICH SIGNIFICANTLY EXCEEDS THE APPRENTICE TO JOURNEY WORKER RATIO SPECIFIED IN THE APPLICABLE COLLECTIVE BARGAINING AGREEMENT, OR THE RATIO ESTABLISHED BY PRACTICE IN THE AREA OF THE CONSTRUCTION TRADE.
- ◆ E. THE CONTRACTOR OR SUBCONTRACTOR IS TO KEEP A COMPLETE AND ACCURATE RECORD OF ALL REQUESTS MADE FOR THE REFERRAL OF WORKERS IN ANY TRADE.

### ◆ 3. CONSTRUCTION CONTRACT REPORTS

CONSTRUCTION CONTRACTORS SHALL BE RESPONSIBLE FOR THE COMPLETION OF MONTHLY EMPLOYMENT UTILIZATION REPORTS FOR EACH PROJECT ON FORMS MADE AVAILABLE BY THE AFFIRMATIVE ACTION OFFICE. THE REPORT SHALL INCLUDE AN ANALYSIS OF THE CONTRACTOR AND ITS SUBCONTRACTOR'S WORKFORCE. THE MONTHLY EMPLOYEE UTILIZATION REPORT, FORM AA202 SHALL BE SUBMITTED TO THE AFFIRMATIVE ACTION OFFICE AND PUBLIC AGENCY COMPLIANCE OFFICER NO LATER THAN THE SEVENTH WORK DAY OF EACH MONTH FOR THE DURATION OF EACH PROJECT. (SEE ATTACHMENT 7)





# Affirmative Action Procedure Flow Chart

## AFFIRMATIVE ACTION PROCEDURES IN AWARDING PUBLIC CONTRACTS

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1. INCLUDE MANDATORY LANGUAGE  
IN ADVERTISEMENT FOR BIDS

2. INCLUDE APPROPRIATE MANDATORY LANGUAGE  
IN EITHER THE CONTRACT OR THE BID  
SPECIFICATIONS

3. REQUIRED AFFIRMATIVE ACTION EVIDENCE  
FROM CONTRACTOR OR VENDOR.

BIDDERS ARE REQUIRED TO COMPLY WITH THE  
REQUIREMENTS OF P.L.1975.C.127(N.J.A.C.17:27)

GOODS, SERVICES AND PROFESSIONAL  
SERVICES CONTRACTS

MANDATORY LANGUAGE OF  
EXHIBIT 'A'

ALL SUCCESSFUL VENDORS MUST  
SUBMIT ONE OF THE FOLLOWING  
FORMS OF EVIDENCE:

- =====
1. LETTER OF FEDERAL APPROVAL  
OR  
2. CERTIFICATE OF EMPLOYEE  
INFORMATION REPORT  
OR  
3. COMPLETE FORM AA302
- =====

AFFIRMATIVE ACTION EVIDENCE MUST

AFFIRMATIVE ACTION EVIDENCE MUST  
BE SUBMITTED WITHIN 7 DAYS AFTER  
RECEIPT OF THE NOTIFICATION OF  
INTENT TO AWARD THE CONTRACT OR  
RECEIPT OF THE CONTRACT,WHICHEVER  
IS SOONER

CONSTRUCTION CONTRACTS

MANDATORY LANGUAGE OF  
EXHIBIT 'B'

ALL SUCCESSFUL CONSTRUCTION  
CONTRACTORS MUST SUBMIT THE  
FOLLOWING FORM OF EVIDENCE:

- =====
1. COMPLETE FORM AA201.
- =====

BE SUBMITTED NO LATER THAN 3 DAYS  
AFTER SIGNING OF THE CONTRACT